

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1670 of 1997

in

SPECIAL CIVIL APPLICATION No 13605 of 1994

For Approval and Signature:

Hon'ble THE ACT.C.J. MR K.G.BALAKRISHNAN and
MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? No

2. To be referred to the Reporter or not? No @

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@ 2. To be referred to the Reporter or not? No

3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?

No

AHMEDABAD MUNICIPAL

CORPORATION

Versus

HARIBHAI BECHHARBHAI

Appearance:

M/S ANAND ADVOCATES for Appellant

MR DG CHAUHAN for Respondent No. 1

CORAM : THE ACT.C.J. MR K.G.BALAKRISHNAN and

MR.JUSTICE J.M.PANCHAL

Date of decision: 19/06/98

ORAL JUDGMENT: (Per K.G.Balakrishnan, Actg. C.J.)

This is an appeal preferred against the judgment of the learned single Judge in Special Civil Application No.13605 of 1994. The respondent herein was an employee of the appellant - Corporation. Disciplinary proceedings were initiated against him alleging that, while continuing as an employee of the Corporation, he had been working in a mill as a worker. The Disciplinary Authority found him guilty and he was, thereupon, removed from service. That finding was challenged before the Labour Court. The Labour Court directed the appellant - Corporation to reinstate the respondent with full backwages from 5.10.1978 till the date of reinstatement. The appellant challenged the same before the learned single Judge and contended that the respondent should have been removed from service and that the direction with regard to payment of backwages was illegal. The learned single Judge held that the respondent had been doing some part-time work just to make some extra earning and it was not a serious misconduct for which he should have been removed from service. The learned single Judge has directed the appellant - Corporation to pay backwages to the respondent from 1.11.1982 till the date of his attaining the age of superannuation. The same is challenged in this appeal.

2. Heard the learned Counsel for the parties. It is noted that the date of birth of the respondent is 17.11.1924 and he also retired from service on the last day of November 1984. By the direction of the learned single Judge, the appellant - Corporation need pay backwages only for a period of two years. It is also pertinent to note that the respondent was removed from service on 5.10.1978. So, after a long lapse of litigation only, the respondent was ordered to be paid his backwages. The appellant - Corporation did not pay the backwages or any portion thereof to the respondent even after the order passed by the learned single Judge.

In the circumstances, we are not inclined to interfere with the order passed by the learned single Judge. Appeal is dismissed.

3. We are told that the Labour Court has directed the appellant to pay all pensionary benefits to the respondent, but nothing has been paid so far. The appellant is directed to fix all pensionary benefits and arrears of pension etc. and also the backwages for the period of two years and make payment on or before 31.7.1998.

Sd/-

(K.G.Balakrishnan, Actg. C.J.)

Sd/-

19th June, 1998

(J.M.Panchal, J.)

[KMG Thilake]